



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-130
February 15, 2023

**APPLICATIONS GRANTED FOR THE TRANSFER OF CONTROL OF
SPRINT COMMUNICATIONS COMPANY L.P. TO
COGENT INFRASTRUCTURE, INC.**

WC Docket No. 22-360

By this Public Notice, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau (together, Bureaus) grant applications filed by Sprint LLC and Cogent Infrastructure, Inc. (Cogent Infrastructure) (together, Applicants) for the transfer of control of Sprint Communications Company L.P. (SCCLP) to Cogent Infrastructure (Transaction), pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act),¹ the Cable Landing License Act of 1921,² and sections 1.767, 1.948, 25.119, 63.03-04, 63.12, 63.18, and 63.24 of the Federal Communications Commission's (Commission) rules.³

On November 10, 2022, the Bureaus released a public notice seeking comment on the Applications.⁴ We did not receive comments or petitions in opposition to the Applications.

Applicants and Services Provided

SCCLP is a Delaware limited partnership indirectly wholly owned by Sprint LLC.⁵ Sprint

¹ 47 U.S.C. §§ 214, 310(d).

² 47 U.S.C. §§ 34-39; *see also* Exec. Ord. No. 10530, Sec. 5(a), reprinted as amended at 3 U.S.C. § 301 (delegating the President's authority under the Cable Landing License Act to the Commission).

³ 47 CFR §§ 1.767, 1.948, 25.119, 63.03-04, 63.12, 63.18, 63.24; Joint Application, WC Docket No. 22-360 (filed Oct. 12, 2022) (Lead Application); Letter from Nancy J. Victory, Counsel for Sprint LLC and Sprint Communications Company L.P., and Matthew A. Brill, Counsel for Cogent Infrastructure, to Marlene Dortch, Secretary, FCC (filed Oct. 27, 2022) (on file in WC Docket No. 22-360) (Supplement). The Commission licenses and authorizations subject to the applications are listed in Attachment A to this Public Notice and include domestic and international section 214 authorizations, wireless licenses, earth station licenses, and submarine cable landing licenses.

⁴ *Applications Filed for the Transfer of Control of Sprint Communications Company L.P. to Cogent Infrastructure, Inc.*, WC Docket No. 22-360, Public Notice, DA 22-1185 (WCB/IB/WTB 2022).

⁵ Lead Application at 2.

LLC, which itself does not provide telecommunications services,⁶ is, in turn, a direct, wholly owned subsidiary of T-Mobile USA, Inc. (T-Mobile), a nationwide wireless telecommunications provider.⁷ Operating as a subsidiary of T-Mobile, SCCLP provides facilities-based and resold wireline telecommunications services, including retail business data services (BDS) and Internet Protocol (IP) transit, to enterprise customers throughout the United States via the legacy Sprint wireline network.⁸ That wireline network includes “approximately 37,000 domestic route miles (consisting primarily of long-haul fiber, owned and leased) as well as 28 data center facilities, 250 domestic and more than 60 international Points of Presence,” as well as ownership interests in five submarine cables (Sprint Wireline network or business).⁹

Cogent Infrastructure is a Delaware corporation that is a direct, wholly owned subsidiary of Cogent Communications Holdings, Inc. (Cogent Communications), which is a publicly held Delaware corporation.¹⁰ Through a subsidiary, Cogent Communications provides “Internet access services, private network solutions, and data center colocation space” to Internet service providers (ISPs), telecommunications carriers, and small and medium business and enterprise customers across the United States.¹¹ Cogent Communications is a global IP transit provider.¹² It also provides certain private line services that it states may be a substitute for customers who purchase BDS.¹³

One individual and two entities hold an interest in Cogent Communications of 10% or more: David Schaeffer, a U.S. citizen who is CEO and Chairman of Cogent Communications (10.2% of Cogent Communications’ common stock); BlackRock Inc., a U.S. entity (14.7% of Cogent Communications’ common stock);¹⁴ and The Vanguard Group, Inc., a U.S. entity (10.1% of Cogent

⁶ *Id.* at 7, 14.

⁷ *Id.* at 2. On April 1, 2020, T-Mobile acquired Sprint Corporation, including Sprint’s wireline network. *Applications of T-Mobile US, Inc., and Sprint Corporation, for Consent to Transfer Control of Licenses and Authorizations for American H Block Wireless L.L.C., DBSD Corporation, Gamma Acquisition L.L.C., and Manifest Wireless L.L.C. for Extension of Time*, WT Docket No. 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Red 10578, 10584, para. 15 (2019); Letter from Nancy Victory, Counsel for T-Mobile US, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197 (filed Apr. 14, 2020) (notice of consummation).

⁸ Lead Application at 2-3, 7, 14. SCCLP does not provide telecommunications services to residential customers. Supplement at 1.

⁹ Lead Application at 3

¹⁰ *Id.* at 2-3.

¹¹ *Id.* at 3.

¹² *Id.* at 6.

¹³ *Id.* at 6-7.

¹⁴ *Id.* at 11-12, Exh. B (Post-Transaction Organizational Chart). BlackRock, Inc. (BlackRock) is a publicly traded Delaware corporation that owns 14.7% of Cogent Communications’ common stock through various subsidiaries. *See id.*; Supplement at 1-3 (“According to the BlackRock 13G, BlackRock and certain of its subsidiaries collectively own 7,072,055 shares, or 14.8 percent, of the common stock of Cogent Communications.”). BlackRock is an investment entity and neither it nor its subsidiaries have the power to

Communications' common stock).¹⁵ Applicants state that Cogent Infrastructure is not affiliated with other communications providers in which BlackRock or Vanguard may hold an ownership interest.¹⁶

Pursuant to a Membership Interest Purchase Agreement (Purchase Agreement), dated September 6, 2022, Cogent Infrastructure will purchase from Sprint LLC the membership interests of SCCLP's direct parent company.¹⁷ Applicants explain that currently the direct parent is Sprint Communications LLC, a Kansas limited liability company.¹⁸ However, shortly before the Transaction is consummated, Sprint Communications LLC will become a Delaware limited liability company and then will divide into two separate limited liability companies: (i) a new Delaware limited liability company (Patagonia SaleCo 2, LLC) that will hold Sprint Communications LLC's assets and liabilities relating to the legacy Sprint Wireline business to be transferred, including the rights and obligations of Sprint Communications LLC as the sole general partner of SCCLP and as the 100% owner of Utelcom LLC, the sole limited partner of SCCLP, and (ii) the continuation of Sprint Communications LLC as a Delaware limited liability company (which will continue to be named Sprint Communications LLC) that will retain Sprint Communications LLC's assets and liabilities not being transferred.¹⁹ At the time of the Transaction, Cogent Infrastructure will acquire Patagonia SaleCo 2, LLC, which will own 100% of SCCLP (through a combination of direct and indirect ownership), among other assets.²⁰

Grant of Applications

We find, upon consideration of the record, that a grant of the Applications will serve the public interest, convenience, and necessity. To make this determination under Commission precedent, we consider whether the proposed transaction complies with the Act, related statutes, and the Commission's rules and, if so, whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.²¹ We then

manage, operate, or control Cogent Communications, and they do not have the power to individually elect members of the Board of Cogent Communications. Supplement at 3.

¹⁵ Lead Application at 11-12, Exh. B (Post-Transaction Organizational Chart). The Vanguard Group, Inc. (Vanguard) is a Pennsylvania corporation that owns 10.1% of Cogent Communications' common stock through various subsidiaries. *See id.*; Supplement at 1-3 ("According to the Vanguard 13G, Vanguard and certain of its subsidiaries collectively own 4,835,162, or 10.14 percent, of the common stock of Cogent Communications."). Vanguard is an investment entity and neither it nor its subsidiaries have the power to manage, operate, or control Cogent Communications, and they do not have the power to individually elect members of the Board of Cogent Communications. Supplement at 3.

¹⁶ Supplement at 3.

¹⁷ Lead Application at 3.

¹⁸ *Id.* at 3-4.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ *See, e.g., Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V. for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112, IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, 36 FCC Rcd 16994, 16996, para. 21 (2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications*

employ a balancing test that weighs any potential public interest harms of the proposed transaction against any potential public interest benefits.²² The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.²³ We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.²⁴ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.²⁵ Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.²⁶

We find that the record contains no evidence of any potential public interest harms, including competitive harms. While SCCLP offers some BDS offerings over its legacy wireline network to a small customer base,²⁷ Cogent Infrastructure states that to the extent that it offers any service that is similar to SCCLP's BDS offerings, there are other competitors in the marketplace.²⁸ We agree with Applicants that rather than harming competition, combining SCCLP's network with Cogent Communications' network and thereby allowing Cogent Communications to offer expanded facilities-based services will better enable the company to compete against larger providers.²⁹

Act of 1934, as Amended, ITC-214-20110901-00289, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and Subsidiaries, Debtors-in-Possession), Assignors, to Time Warner Cable Inc. (Subsidiaries), Assignees; Adelphia Communications Corporation, (and Subsidiaries, Debtors-in-Possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

²² See *Verizon-TracFone Order*, 36 FCC Rcd at 16996, para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*)) (further citations omitted).

²³ See *Verizon-TracFone Order*, 36 FCC Rcd at 16996, para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002)) (further citations omitted).

²⁴ See *AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

²⁵ See *id.* at 9237-38, paras. 275-76.

²⁶ See *id.*

²⁷ Lead Application at 7-8, 14.

²⁸ *Id.* at 6-7 (stating that Cogent Communications' virtual private LAN service (VPLS) and SCCLP's Enterprise Multiprotocol Label Switching Service (MPLS) may constitute partial substitutes and that both companies face competition for services offered from larger providers). Cogent Infrastructure and its affiliates do not have a BDS tariff filed with the Commission.

²⁹ *Id.* at 6-8 (stating that Cogent "currently relies almost entirely on leased fiber," and the proposed transaction will increase its ownership of core network facilities). See, e.g., *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9594, 9605, paras. 26 and 52 (2017) (*CenturyLink-Level 3 Order*) (finding no harm to competition areas where both applicants operate as competitive LECs, and further finding that the

SCCLP and Cogent Communications are also IP transit providers. SCCLP ranks as the 22nd and Cogent Communications ranks as the 3rd largest transit provider globally.³⁰ Cogent Communications explains that it competes against major global providers, including Arelion, NTT Communications, Tata Communications, Telecom Italia Sparkle, and Zayo, as well as other large U.S. telecommunications carriers and cable operators.³¹ There are no comments in this proceeding alleging that the proposed transaction will harm the IP transit marketplace. As the Commission has found, the transit services marketplace is highly competitive,³² and the loss of SCCLP is unlikely to significantly decrease competition for customers of IP transit. We agree with Applicants that acquiring the SCCLP network will allow Cogent Communications to expand its reach in order to compete more effectively and that it will continue to be subject to significant competitive pressure post-transaction.³³ Moreover, Applicants have stated on the record that absent the proposed transaction, T-Mobile planned to wind down the SCCLP business and decommission the network, thereby eliminating SCCLP as a competitor in any case.³⁴ Further, Applicants state that Cogent Infrastructure will continue to serve SCCLP customers with existing arrangements as well as offer additional service options,³⁵ and we thus expect no potential harm to existing customers to result from the proposed transaction.³⁶

Applicants assert that the proposed transaction also will benefit customers by transferring the SCCLP network assets to Cogent Infrastructure, which will invest in and use them to expand service offerings and better compete.³⁷ Specifically, Applicants assert that legacy SCCLP customers will have the opportunity to switch from legacy MPLS services to more advanced VPLS services.³⁸ They also assert that acquiring SCCLP's network will allow Cogent Communications to increase ownership of core network facilities, improve service, decrease network costs, and compete more effectively in the provision of IP transit service.³⁹ We agree that the transaction should allow

transaction "will expand the on-net reach of the newly combined firm resulting in a more effective and stronger competitor against larger cable and incumbent LEC competitors, among others, particularly outside of CenturyLink's incumbent LEC region, where it, like Level 3, operates as a competitive LEC.").

³⁰ See Center for Applied Internet Data Analysis, Current AS Ranking, <https://asrank.caida.org/>. The Commission has referred to this ranking source in other transactions. See *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9602, para. 46.

³¹ Lead Application at 6.

³² See, e.g., *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9602, para. 46; *Applications of XO Holdings and Verizon Communications Inc. for Consent to Transfer Control of Licenses and Authorizations*, 31 FCC Rcd 12501, 12526, paras. 43-44 (WCB 2016) (*Verizon-XO Order*).

³³ Lead Application at 6-7.

³⁴ *Id.* at 5, 8.

³⁵ *Id.* at 5.

³⁶ *Id.* at 8.

³⁷ *Id.* at 5-8.

³⁸ *Id.* at 8.

³⁹ *Id.* at 1-2.

Cogent to lower costs and provide better service, thereby enhancing competition. The Commission has recognized that a transaction can enhance a firm's ability to compete, lower prices, and improve service quality where the transaction allows it to reduce reliance on leased fiber facilities and serve multi-location customers over owned facilities.⁴⁰ In addition, ensuring consumers receive new or additional services is an important public interest factor,⁴¹ and accelerating private sector deployment of advanced services is one of the aims of the Act.⁴² We also find that transferring the SCCLP network assets to Cogent Infrastructure will allow existing customers to remain on the network rather than endure the disruption of switching to a new provider as would be required if SCCLP decommissioned the network.⁴³ Overall, we find it likely that the proposed transaction would result in some public interest benefits and, given the lack of potential harms, find on balance that the proposed transaction serves the public interest. We therefore grant the Applications.

Accordingly, pursuant to sections 4(i) and (j), 5(c), 214(a), 214(c), 303(r), 309, and 310(d) of the Act, 47 U.S.C. §§ 154(i), 154(j), 155(c), 214(a), 214(c), 303(r), 309, 310(d), the Cable Landing License Act of 1921, 47 U.S.C. §§ 34-39, and sections 1.767, 1.948, 63.04, and 63.24 of the Commission's rules, 47 C.F.R. §§ 1.767, 1.948, 63.04, 63.24, and pursuant to the authority delegated under sections 0.51, 0.91, 0.131, 0.261, 0.291, and 0.331 of the Commission's rules, 47 CFR §§ 0.51, 0.91, 0.131, 0.261, 0.291, 0.331, we grant the Applications listed in Attachment A.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the consent granted herein is effective upon the release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Keith Buell, Wireline Competition Bureau, (202) 418-2378; Clay DeCell, International Bureau, (202) 418-0803; David Krech, International Bureau, (202) 418-7443; or for the Wireless Telecommunications Bureau, Jeff Tobias, (202) 418-1617.

⁴⁰ See *CenturyLink-Level 3 Order*, 32 FCC Rcd at 9606-07, para. 57 (citing *Verizon-XO Order*, 31 FCC Rcd at 12536, para. 63 (finding that facilities-based ownership enables the provider to maximize service reliability, identify and resolve service disruptions, process customers' orders more quickly, avoid unintended route redundancy, and minimize customer traffic handoff to other networks)).

⁴¹ See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

⁴² See *Verizon-TracFone Order*, 36 FCC Rcd at 16996-97, para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (one purpose of the Act is to "accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services"))).

⁴³ Lead Application at 8.

ATTACHMENT A

SECTION 214 AUTHORIZATIONS

A. International

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20221012-00124	Sprint Communications Company L.P.	ITC-214-20221010-00118 ITC-MOD-20200221-00034 ITC-214-19950818-00039 ITC-214-19990325-00153 ITC-214-19970421-00220 ITC-MOD-20191025-00173

B. Domestic

The Wireline Competition Bureau grants the application to transfer control of domestic section 214 authority in connection with the proposed transaction.

CABLE LANDING LICENSES

<u>File Number</u>	<u>Licensee</u>	<u>License Number</u>
SCL-T/C-20221013-00028	Sprint Communications Company L.P.	SCL-MOD-20191202-00038 ⁴⁴ SCL-LIC-19951013-00002 ⁴⁵ SCL-MOD-20130227-00002 ⁴⁶ SCL-MOD-20110928-00028 ⁴⁷ SCL-LIC-20180702-00019 ⁴⁸

EARTH STATION LICENSES

⁴⁴ The current file number for the Americas II submarine cable landing license.

⁴⁵ The current file number for the Antillas I submarine cable landing license. The cable is currently operating pursuant to Special Temporary Authority (SCL-STA-20221014-00029).

⁴⁶ The current file number for the Japan-U.S. Cable Network cable landing license.

⁴⁷ The current file number for the Maya-1 submarine cable landing license.

⁴⁸ The current file number for the Taino-Carib Cable System cable landing license.

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<u>File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
SES-T/C-20221104-01180	Sprint Communications Company L.P.	E6777
SES-T/C-20221104-01181	Sprint Communications Company L.P.	E6241

SECTION 310(d) APPLICATIONS

<u>File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0010235820	Sprint Communications Company L.P.	KA86929

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